



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 31, 1995

Ms. Tamara Armstrong
Assistant County Attorney
Travis County Courthouse
P.O. Box 1748
Austin, Texas 78767

OR95-053

Dear Ms. Armstrong:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31008.

Travis County (the "county") received a request for records relating to an accident in which an individual was allegedly injured. The county submitted to this office for review records responsive to the request. The county contends that these records are excepted from disclosure pursuant to sections 552.103(a), 552.107 and 552.111 of the Government Code.

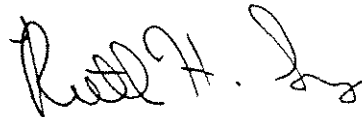
To show the applicability of section 552.103(a), a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. You have provided information showing that litigation is reasonably anticipated. Our review of the records at issue shows that they are related to the litigation. The records may therefore be withheld pursuant to section 552.103(a).

Because we have determined that this information may be excepted from disclosure pursuant to section 552.103(a), we do not at this time need to consider your argument that the records at issue are also excepted from disclosure pursuant to sections 552.107 and 552.111.¹ The applicability of section 552.103(a) ends once litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982) at 3. We note that section 552.103(a) is a discretionary exception with the county. Gov't Code § 552.007; Open Records Decision No. 542 (1990) at 4.

¹None of the records at issue appear to have been disclosed to the opposing party in the anticipated litigation. We note that if the records had been so disclosed, section 552.103(a) would not be applicable. See Open Records Decision No. 349 (1982) at 2.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy".

Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/KHG/rho

Ref.: ID# 31008

Enclosures: Submitted documents

cc: Mr. Robert R. Swafford
Attorney at Law
1204 Nueces
Austin, Texas 78701
(w/o enclosures)